

**August 30, 2007**

Les Boles, Director  
Office of State Budget  
**1201 Main Street, Suite 870**  
Columbia, SC 29201

Re: FY 2008-2009 Budget Plan

Dear Mr. Boles:

We are forwarding ten copies of our FY 2008-2009 Budget Plan and have electronically transmitted two files to [krhinehart@budget.sc.gov](mailto:krhinehart@budget.sc.gov).

We are requesting an amendment to Provisos 47.5, and respectfully request that all other provisos pertaining to the Commission on Indigent Defense, the Office of Indigent Defense and/or the Office of Appellate Defense, including Proviso 72.112 (Prosecutors and Defenders Public Service Incentive Program) are reenacted in the Appropriations Act for FY 2008-2009.

If you or your staff have any questions, please contact my Assistant Director, Lisa Graves at 803-734-1168.

With best regards, I remain,

Very truly yours,

T. Patton Adams  
Executive Director

## **FISCAL YEAR 2008-09 BUDGET PLAN**

### **I. EXECUTIVE SUMMARY**

A. Agency Section/Code/Name: Section 47/E23/Commission on Indigent Defense

B. Statewide Mission: The Commission on Indigent Defense establishes and monitors programs and services for the delivery of legal representation of indigent defendants in State Court. The Commission establishes criteria to be used in the determination of indigency and qualifications for services of the offices of Public Defender and administers appropriate distribution of funding for indigent defense. Additionally, the office establishes and supervises training programs for the Public Defender offices across the State as well as implementing a central reporting system for the accurate compilation of statistical data regarding the operation of Public Defender Offices and serves as a clearinghouse and distribution source for publications and materials involving indigent criminal defense. The division of the Office of Appellate Defense provides representation to indigent clients on direct appeal and post conviction relief matters, including death penalty cases.

C. Summary Description of Strategic or Long-Term Goals:

(1) Statewide implementation of Indigent Defense Act 108, to establish a circuit based indigent defense system that will result in delivery of indigent defense services in a fair and consistent manner throughout the state by qualified and competent counsel and in a fiscally responsible manner;

(2) To provide representation to indigent persons appearing in the State Court system, including General Sessions, Circuit and Family Courts, as well as Magistrate and Municipal courts if the defendant faces charges that could result in incarceration, thereby expediting the judicial process by providing effective representation as economically as possible;

(3) To compile data on the operation of the indigent defense delivery systems in South Carolina.

D.

Summary of Operating Budget Priorities for FY 2008-09:		FUNDING					FTEs			
		State Non- Recurring	State Recurring	Federal	Other	Total	State	Fed.	Other	Total
Priority No.: 1	Title: Indigent Defense Act #108	\$0	\$3,993,844	\$0	\$0	\$3,993,844	0	0	0	0
Strategic Goal No. Referenced in <u>Item C Above (if applicable):</u> Activity Number & Name: NEW Administration – Circuit Public Defender Offices										
Priority No.: 2	Title: Death Penalty Trial Unit	\$0	\$500,000	\$0	\$0	\$500,000	5.00	0	0	5.00
Strategic Goal No. Referenced in <u>Item C Above (if applicable):</u> Activity Number & Name: 1792 Death Penalty Trial Unit										
Priority No.: 3	Title: Information Technology	\$0	\$250,000	\$0	\$0	\$250,000	0	0	0	0
Strategic Goal No. Referenced in <u>Item C Above (if applicable):</u> <u>Activity Number &amp; Name: 1661</u> <u>Information Technology</u>										
Priority No.: 4	Title: Personnel	\$0	\$196,588	\$0	\$0	\$196,588	4.00			4.00
Strategic Goal No. Referenced in <u>Item C Above (if applicable):</u> <u>Activity Number &amp; Name:</u> Direct Appeals #156 & 157 Post Conviction Relief Appeals										
TOTAL OF ALL PRIORITIES		\$ 0	\$ 4,940,432	\$ 0	\$ 0	\$4,940,432	9.00	0.00	0.00	9.00

E. Agency Recurring Base Appropriation:

State \$ 8,800,281

Federal\$ -0-

Other \$ 13,175,652

- F. Efficiency Measures: To provide efficient and cost-effective representation for indigent defendants in state courts. Public Defenders and court appointed counsel, in both criminal and civil court provide a great service to their clients, their counties and to the state. Public Defenders represent approximately 80-85% of all criminal defendants. From an efficiency standpoint, Public Defenders provide the most cost effective representation and expertise in the field. This agency respectfully requests funding to implement the statewide public defender system, establish the Death Penalty Trial Unit and continue the utilization and development of information technology to enable fulfillment of the agency's mission. This agency's request for funds serves the criminal justice system as a whole and will greatly improve the delivery and accountability in publicly funded indigent representation. The defense is a fundamental component of our court system and a necessity to ensure that the ends of justice are served.

G.

Summary of Capital Budget Priorities: None			Additional State Funds	Previously Authorized State Funds	Total Other Fund Sources	Project Total
Priority No.:	<u>Project Name:</u> Activity Number & Name:	Project No*:	0	0	0	\$ 0
Priority No.:	<u>Project Name:</u> Activity Number & Name:	Project No*:	0	0	0	\$ 0
Priority No.:	<u>Project Name:</u> Activity Number & Name:	Project No*:	0	0	0	\$ 0
TOTAL OF ALL CAPITAL BUDGET PRIORITIES			\$ 0	\$ 0	\$ 0	\$ 0

\* If applicable

H. Number of Proviso Changes: (1) 47.5 Amendment to conform language.

We respectfully request that all other provisos pertaining to the Commission on Indigent Defense, the Office of Indigent Defense and/or the Office of Appellate Defense, including Proviso 72.112 (*Prosecutors and Defenders Public Service Incentive Program*) are reenacted in the Appropriations Act for FY2008-2009.

I. Signature/Agency Contacts/Telephone Numbers:

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Patton Adams, Executive Director  
803-734-1344  
[patton@sccid.sc.gov](mailto:patton@sccid.sc.gov)

## II. DETAILED JUSTIFICATION FOR FY 2008-09 OPERATING BUDGET PRIORITIES

A. Agency Section/Code/Name: Section 47/ E23/Commission on Indigent Defense

B. Priority No. \_\_1\_\_ of \_\_4\_\_

C. (1) Title: **Indigent Defense Act 108**

(2) Summary Description: Recurring funding for implementation of statewide circuit public defender system. We respectfully request current Defense of Indigents Per Capita Funding from Supplemental Revenue in the amount of \$2,000,000 be annualized and an additional allocation of \$1,993,844 in General Fund appropriations.

(3) Strategic Goal/Action Plan (*if applicable*): Full implementation of Act 108 by June 30, 2009.

D. Budget Program Number and Name: I. Administration - New Request

E. Agency Activity Number and Name: New – Administration - Circuit Public Defender Offices

F. Detailed Justification for Funding

(1) Justification for Funding Increase: The Indigent Defense Act became law on June 21, 2007. The act establishes a statewide, unified indigent defense system requiring: (1) parity in benefits and salaries between prosecution and defense systems; (2) the delivery of public defender services by qualified and competent counsel, in a manner that is fair and consistent throughout the state, and; (3) adequate public funding of a statewide public defender system, managed in a fiscally responsible manner. To fulfill the requirements of the Act, funding for a circuit public defender in each of the state's 16 judicial circuits, and an administrative assistant for each circuit is requested to achieve parity with the current statewide prosecution system. FTE's were allocated by Budget and Control Board on August 15, 2007.

(2)

<b>FY 2008-09 Cost Estimates:</b>	<b>State Non-Recurring Funds</b>	<b>State Recurring Funds</b>	<b>Federal</b>	<b>Other</b>	<b>Total</b>
<b>Personnel:</b>					
(a) Number of FTEs*		0			0
(b) Personal Service		\$2,453,424			\$2,453,424
(c) Employer Contributions		\$1,444,420			\$1,444,420

Program/Case Services					\$ 0
Pass-Through Funds					\$ 0
Other Operating Expenses		\$96,000			\$96,000
<b>Total</b>	\$ 0	\$3,993,844	\$ 0	\$ 0	\$3,993,844
<i>* If new FTEs are needed, please complete Section G (Detailed Justification for FTEs) below.</i>					

(3) Base Appropriation:

State       \$ -0-  
Federal     \$ -0-  
Other       \$ -0-

(4) Is this priority associated with a Capital Budget Priority?     No     If yes, state Capital Budget Priority Number and Project Name: \_\_\_\_\_.

G. Detailed Justification for FTEs

(1) Justification for New FTEs

(a) Justification: Required by Act 108 "Indigent Defense Act" and allocated by Budget and Control Board on August 15, 2007

(b) Future Impact on Operating Expenses or Facility Requirements: Minimal

(2) Position Details:

	State	Federal	Earmarked	Restricted	Total
Position Title: Attorney IV					
(a) Number of FTEs	0				00
(b) Personal Service	\$2,155,264				\$2,155,264
(c) Employer Contributions	\$1,340,362				\$1,340,362

	State	Federal	Earmarked	Restricted	Total
Position Title: Administrative Assistant					
(a) Number of FTEs					
(b) Personal Service	\$394,160				\$394,160
(c) Employer Contributions	\$104,058				\$104,058

(3) FTEs in Program Area per FY 2007-08 Appropriation Act:

State	<u>0</u>
Federal	<u>0</u>
Other	<u>0</u>

Agency-wide Vacant FTEs as of July 31, 2007: 4.5

% Vacant 16 %

H. Other Comments: FTE's are designated as unclassified positions

## II. DETAILED JUSTIFICATION FOR FY 2008-09 OPERATING BUDGET PRIORITIES

A. Agency Section/Code/Name: Section 47/ E23/Commission on Indigent Defense

B. Priority No. 2 of 4

D. (1) Title: **Death Penalty Trial Unit**

(2) Summary Description: Annualize funding for the permanent establishment of a Death Penalty Trial Unit to assist rural counties in death penalty trials.

(3) Strategic Goal/Action Plan (*if applicable*): To provide specialized assistance essential in capital trials.

D. Budget Program Name and Number: I. Administration - New Request

E. Agency Activity Number and Name: 1792 – Death Penalty Trial Unit

F. Detailed Justification for Funding

Justification for Funding Increase: In most rural counties the caseload of the public defender is prohibitive to appointment in a capital case. Subsequently, the court must appoint two attorneys from the private sector to represent an indigent defendant. Working in this area of law places great demands on attorneys. It requires expertise in all of the laws controlling state death penalty appeals, as well as an expertise in federal civil procedure and the unique complexities of habeas corpus law. The average fee for appointed counsel in a

death penalty case is \$100.00 per hour. It has long been the goal of this agency to establish a state funded unit that would provide a more cost effective and efficient method for representation of death penalty defendants. Funding for this project would provide that opportunity.

(2)

<b>FY 2008-09 Cost Estimates:</b>	<b>State Non-Recurring Funds</b>	<b>State Recurring Funds</b>	<b>Federal</b>	<b>Other</b>	<b>Total</b>
<b>Personnel:</b>					
(a) Number of FTEs*		5.00			5.00
(b) Personal Service		\$241,000			\$241,000
(c) Employer Contributions		\$72,300			\$72,300
Program/Case Services					\$ 0
Pass-Through Funds					\$ 0
Other Operating Expenses		\$186,700			\$186,700
<b>Total</b>	\$ 0	\$500,000	\$ 0	\$ 0	\$500,000
<i>* If new FTEs are needed, please complete Section G (Detailed Justification for FTEs) below.</i>					

(3) Base Appropriation:

State       \$ -0-  
Federal     \$ -0-  
Other       \$ -0-

(4) Is this priority associated with a Capital Budget Priority?       No       If yes, state Capital Budget Priority Number and Project Name: \_\_\_\_\_.

G. Detailed Justification for FTEs

(2) Justification for New FTEs

(a) Personnel: Two attorneys, one mitigation specialist, one investigator and one administrative assistant is requested to establish the division. The expected result is more cost effective methods in death penalty trials and fewer reversals due to defense counsel error.

(b) Future Impact on Operating Expenses or Facility Requirements: Recurring expenses for salaries, employer contributions, additional office space and other operating expenses estimated at \$500,000 annually.

(2) Position Details:

	State	Federal	Earmarked	Restricted	Total
Position Title: Attorney IV					
(a) Number of FTEs	2.0				2.0
(b) Personal Service	\$150,000				\$150,000
(c) Employer Contributions	\$90,000				\$90,000

	State	Federal	Earmarked	Restricted	Total
Position Title: Mitigation Specialist					
(a) Number of FTEs	1.00				1.00
(b) Personal Service	\$36,000				\$36,000
(c) Employer Contributions	\$10,800				\$10,800

	State	Federal	Earmarked	Restricted	Total
Position Title: Investigator					
(a) Number of FTEs	1.00				1.00
(b) Personal Service	\$30,000				\$30,000
(c) Employer Contributions	\$9,000				\$9,000

	State	Federal	Earmarked	Restricted	Total
Position Title: Administrative Assistant					
(a) Number of FTEs	1.00				1.00
(b) Personal Service	\$25,000				\$25,000
(c) Employer Contributions	\$7,500				\$7,500

(3) FTEs in Program Area per FY 2007-08 Appropriation Act:

State	<u>0</u>
Federal	<u>0</u>
Other	<u>0</u>

Agency-wide Vacant FTEs as of July 31, 2007: 4.5

% Vacant 16 %

H. Other Comments: Non recurring funding of \$500,000 was allocated for FY07-08. Request is to annualize funding and allocate FTE's.

## II. DETAILED JUSTIFICATION FOR FY 2008-09 OPERATING BUDGET PRIORITIES

A. Agency Section/Code/Name: Section 47/ E23/Commission on Indigent Defense

B. Priority No. 3 of 4

E. (1) Title: **Information Technology**

(2) Summary Description: Maintain and upgrade systems to standards as prescribed by the Office of the State Chief Information Officer and to provide accurate data collection and analysis, case management, and a centralized system to integrate with SCEIS and current statewide technology initiatives in the SC Judicial Department.

(3) Strategic Goal/Action Plan (*if applicable*):

D. Budget Program Name and Number: I. Administration – New Request

E. Agency Activity Number and Name: 1661 – Information Technology

F. Detailed Justification for Funding

Justification for Funding Increase: To continue technology initiatives that will provide compatibility with state government, particularly as needed with the State Judicial Department. Requested funding will allow the agency to communicate, research and process effectively within guidelines set by the State CIO, and to provide timely data to legislative and other governmental entities, as required in the agency mission statement.

(2)

<b>FY 2008-09 Cost Estimates:</b>	<b>State Non-Recurring Funds</b>	<b>State Recurring Funds</b>	<b>Federal</b>	<b>Other</b>	<b>Total</b>
<b>Personnel:</b>					
(a) Number of FTEs*		0			0
(b) Personal Service		\$0			\$0
(c) Employer Contributions		\$0			\$0
Program/Case Services					\$ 0
Pass-Through Funds					\$ 0
Other Operating Expenses		\$250,000			\$250,000
<b>Total</b>	\$ 0	\$250,000	\$ 0	\$ 0	\$250,000
<i>* If new FTEs are needed, please complete Section G (Detailed Justification for FTEs) below.</i>					

(3) Base Appropriation:

State       \$ -0-  
Federal     \$ -0-  
Other       \$ -0-

(4) Is this priority associated with a Capital Budget Priority?       No       If yes, state Capital Budget Priority Number and Project Name: \_\_\_\_\_.

G. Detailed Justification for FTEs: None

H. Other Comments:

## II. DETAILED JUSTIFICATION FOR FY 2008-09 OPERATING BUDGET PRIORITIES

A. Agency Section/Code/Name: Section 47/ E23/Commission on Indigent Defense

B. Priority No. 4 of 4

F. (1) Title: Personnel

(2) Summary Description: To maintain effectiveness and timeliness by decreasing case per attorney ratio.

(3) Strategic Goal/Action Plan (*if applicable*): *To provide cost- efficient indigent representation.*

D. Budget Program Number and Name: I. Administration & II. Division of Appellate Defense

E. Agency Activity Number and Name: 156 Direct Appeals & 157 Post Conviction Relief Appeals

F. Detailed Justification for Funding

(1) Justification for Funding Increase: The Division of Appellate Defense currently staffs eight appellate defenders. During fiscal year 2006 – 2007 the division opened 1059 new cases for assignment among these eight attorneys. At the close of the fiscal year the appellate staff maintained 1107 active cases opened prior to July 1, 2006. The requested funding of two entry level attorney positions and associated support staff is designed to fulfill the General Assembly's legislative mandate to provide competent representation to indigent defendants on appeal in the most cost-efficient manner.

(2)

<b>FY 2008-09 Cost Estimates:</b>	<b>State Non-Recurring Funds</b>	<b>State Recurring Funds</b>	<b>Federal</b>	<b>Other</b>	<b>Total</b>
<b>Personnel:</b>					
(a) Number of FTEs*		4			4.00
(b) Personal Service		157,270			\$157,270
(c) Employer Contributions		39,318			\$39,318
Program/Case Services					\$ 0
Pass-Through Funds					\$ 0
Other Operating Expenses					\$ 0

<b>Total</b>	\$ 0	\$196,588	\$ 0	\$ 0	\$196,588
<i>* If new FTEs are needed, please complete Section G (Detailed Justification for FTEs) below.</i>					

(3) Base Appropriation:

State \$  
Federal \$  
Other \$

(4) Is this priority associated with a Capital Budget Priority? NO If yes, state Capital Budget Priority Number and Project Name: \_\_\_\_\_.

G. Detailed Justification for FTEs

(3) Justification for New FTEs

(a) Justification: At fiscal 2006 – 2007 year end the Division of Appellate Defense maintained 2044 active cases, an average of more than 255 active cases per appellate defender. The division opened 1059 cases during the fiscal year. This number equates to a new criminal appeal assignment of approximately one every two days to our current staff of eight appellate defenders. Requested FTE's will effectively disseminate the division's caseload resulting more adequate time to provide the effective representation mandated by the legislature. This corresponds to greater efficiencies and fewer delays in the state's judicial process.

(b) Future Impact on Operating Expenses or Facility Requirements: None

(2) Position Details:

	State	Federal	Earmarked	Restricted	Total
Position Title: Attorney IV					
(a) Number of FTEs	2				2.00
(b) Personal Service	108,000				\$108,000
(c) Employer Contributions	27,000				\$27,000

	State	Federal	Earmarked	Restricted	Total
Position Title: Administrative Assistant					
(a) Number of FTEs	2				2.00
(b) Personal Service	49,270				\$49,270
(c) Employer Contributions	12,318				\$12,318

(3) FTEs in Program Area per FY 2007-08 Appropriation Act:

State \_\_\_\_\_  
Federal \_\_\_\_\_  
Other \_\_\_\_\_

Agency-wide Vacant FTEs as of July 31, 2007: 4.5

% Vacant 16 %

G. Other Comments:

## FY 2008-09 COST SAVINGS & ACTIVITY PRIORITY ADDENDUM

### I. PRIORITY ASSESSMENT OF ACTIVITIES – HIGHEST PRIORITIES

A. Agency Section/Code/Name: Section 47/E23/Indigent Defense

B.

<b>Priority Assessment of Activities – Highest Priorities</b>	<b>General</b>	<b>Federal</b>	<b>Supplemental</b>	<b>Capital Reserv e</b>	<b>Other</b>	<b>Total</b>	<b>FTE s</b>
Activity Number & Name: #156 Direct Appeals	\$386,444	0	0	0	\$101,300	\$487,744	9.0
Activity Number & Name: #157 Post Conviction Relief	\$386,444	0	0	0	\$101,300	\$487,744	9.0
Activity Number & Name: #161 Death Penalty Fund	\$50,000	0	0	0	\$3,000,000	\$3,000,050	1.0
Activity Number & Name: #162 Conflict Fund	0	0	0	0	\$2,500,000	\$2,500,000	2.0
Activity Number & Name: #163 Civil Appointment Fund	0	0	0	0	\$4,250,000	\$4,250,000	1.5
<b>TOTAL OF HIGHEST PRIORITIES</b>	<b>\$822,888</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$9,952,600</b>	<b>\$10,725,538</b>	<b>20.50</b>

## FY 2008-09 ACTIVITY PRIORITY ADDENDUM

### II. PRIORITY ASSESSMENT OF ACTIVITIES – LOWEST PRIORITIES

- A. **Agency Section/Code/Name:** Section 47/E23/Indigent Defense
- B. Agency Activity Number and Name: #160 Legal Aid Funding
- C. Explanation of Lowest Priority Status: Pass through funding distributed bi-annually.
- D. Estimate of Savings:

Estimate of Savings:	General	Federal	Supplemental	Capital Reserve	Other	Total
<b>Personnel:</b>						
(a) Number of FTEs	.50	0	0	0	0	0.50
(b) Personal Service	0		0	0	0	\$ 0
(c) Employer Contributions	0		0	0	0	\$ 0
Program/Case Services	0	0	0	0	0	\$ 0
Pass-Through Funds	0	0	0	0	\$1,750,000	\$1,750,000
Other Operating Expenses	0	0	0	0	0	\$ 0
<b>Total</b>	\$ 0	\$ 0	\$ 0	\$ 0	\$1,750,000	\$1,750,000

- E. Activity Impact (*Describe the impact on the activity affected including the impact on customers and clients.*):  
 Bi-annual disbursement of pass through funds to the SC Centers for Equal Justice pursuant to Section 14-1-204. Funds provide free legal services in civil matters involving issues such as housing and consumer fraud.

F.

<b>Summary of Priority Assessment of Activities – Lowest Priorities</b>	<b>General</b>	<b>Federal</b>	<b>Supplemental</b>	<b>Capital Reserve</b>	<b>Other</b>	<b>Total</b>	<b>FTEs</b>
Activity Number & Name: #160 Legal Aid Funding	.50	0	0	0	\$1,750,000	\$1,750,000	.50
Activity Number & Name:	0	0	0	0	0	\$ 0	0
Activity Number & Name:	0	0	0	0	0	\$ 0	0
Activity Number & Name:	0	0	0	0	0	\$ 0	0
Activity Number & Name:	0	0	0	0	0	\$ 0	0
<b>TOTAL OF LOWEST PRIORITIES</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$1,750,000</b>	<b>\$1,750,000</b>	<b>.50</b>